IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.5807 of 1997

1. Shri Lalchand Yadav
and others ..Petitioners

vs.

1. State of Maharashtra and
others ..Respondents

Shri N.M.Ganguli for petitioners
Shri C.R.Sonawane, A.G.P. for respondent nos. 1 to 3
Shri S.M.Oak for respondent no.4
Shri V.N.Solanki for respondent no.5.

CORAM: A.P.SHAH AND
S.C.DHARMADHIKARI JJ
14th OCTOBER, 2004

P.C.

1. Heard Advocates.

2. This petition has been instituted by the petitioners for a writ of mandamus directing the 1st, 2nd and 3rd respondents to recover the amount due and payable to them in accordance with the recovery certificate issued by the Asstt.Commissioner of Labour, Thane in accordance with the provisions of Maharashtra Land Revenue Code, 1966. By order dated 10th May, 2000 the petition was disposed of since the minutes of order signed by the parties and their Advocates were tendered before the Court. The Court recorded that in pursuance of the directions which had been

issued by the Court during the pendency of the petition, the 2nd respondent had sealed the factory of the 4th respondent as a result of which over a hundred employees were rendered jobless. A settlement was entered into by the 4th respondent by which the petitioners agreed to accept a sum of Rs.80,000/- each in full and final settlement of their claims of which a sum of Rs.5,000/- was paid and the balance was secured by post dated cheques. It is admitted position that all the post dated cheques were bounced. The 4th respondent has failed to honour the commitment to pay the amount as per settlement. The petitioners, therefore, filed review petition for review of the order dated 10th May, 2000. The said civil application was allowed and the order dated 10th May, 2000 was accordingly recalled and the petition was restored to file and it is now placed before us for hearing.

3. There is no dispute that the petitioners were workers in the factory of respondent no.4 and their services were illegally and wrongfully terminated by the 4th respondent. The petitioners, therefore, made an application under sections 78 and 79 of B.I.R.Act which was allowed by the Labour Court vide order dated 18th February, 1991 and the petitioners were directed to be reinstated with full back wages except petitioner no.1 who is held

not entitled for back wages for 6 months immediately preceding the date of the order. Appeal preferred by the 4th respondent to the Industrial Court was dismissed on 13th August, 1991. As the 4th respondent did not implement the orders of the Labour Court as well as the Industrial Court, the petitioners preferred an application under sec.33-C(2)to the Labour Court and the Labour Court awarded the wages under sec.33-C(2) of the Act to the petitioners as under:

1. Shri Lalchand Yadav	Rs. 1,81,255/-
2. Shri Ram Birahnath Yadav	Rs. 2,60,733/-
3. Shri Ram Sumiran Parmeshwar	Rs. 2,60,733/-
4. lShri maniram Yadav	Rs. 2,60,733/-
5. Shri Chhanguram Yadav	Rs. 2,60,733/-
6. Shri Jagannath Rajwanta Yadav	Rs. 2,60,733/-
7. Shri Hariram yadav	Rs. 2,60,733/-
8. Manikraj Yadav	Rs. 2,60,733/-

. The order of the Labour Court is not challenged by 4th and 5th respondents and thus the order has attained finality. The 4th and 5th respondent are, therefore, bound to pay the wages of the petitioners as per the recovery certificate. We may mention that respondent no.5 purporting to be conductor of the business filed a Civil Suit No.640

of 2004 seeking stay of the recovery of the said amount by respondent nos.1, 2 and 3. By order dated 2nd September, 1996, the Joitn Civil Judge, Sr.Dn., was rejected the claim in the Special Civil Suit No.643 of 1994. Civil Revision Application preferred by the 5th respondent against the said order in the Trial Court was summarily dismissed by this Court. Thus, the 4th and 5th respondents have no defence whatsoever to the claim of the petitioners. We, therefore, direct respondent nos. 2 and 3 to forthwith take steps to recover the amount due and payable to the petitioners as per the recovery certificate issued by the Asstt.Commissioner of Labour, Thane (Exh.A1 to Exh.A8) to the petition in accordance with the provisions of the Maharashtra Land Revenue Code within a period of 3 months from today. Respondent no.1 is directed to file a compliance report to this Court on or before 10th January, 2005.

4. S.O. to 10th January, 2005.